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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JUANITA DURANT,

Plaintiff,

-against-

UNION LOCAL 237, HUGO ORTEGA, and
CHERYL HART,

Defendants.

ORDER

12-CV-1166 (NGG) (JMA)

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NICHOLAS G. GARAUFIS, United States District Judge.

On March 6, 2012, pro se Plaintiff brought suit against Defendants Union Local 237, Hugo Ortega, and Cheryl Hart alleging constitutional violations and employment discrimination under federal and New York law arising from her employment with the NYC Housing Authority. (See Compl. (Dkt. 1).) Defendants filed a motion pursuant to Federal Rule of Civil Procedure 12(b)(6) to dismiss Plaintiff's Complaint for failure to state a claim. (Dkt. 9.) Plaintiff did not file an opposition to the motion. (See June 29, 2012, Def. Ltr. (Dkt. 10).) The court referred the motion to Magistrate Judge Joan M. Azrack for a Report and Recommendation ("R&R") pursuant to 28 U.S.C. § 636(b). (April 23, 2012, Order (Dkt. 8).)

On March 4, 2013, Judge Azrack issued an R&R recommending that: (1) all of Plaintiff's federal claims be dismissed without prejudice, except for her Title VII to the Civil Rights Act, as amended, 42 U.S.C. § 2000e et seq. and the Americans with Disabilities Act, as amended, 42 U.S.C. § 12101 et seq. claims against the individual defendants, which should be dismissed with prejudice; (2) the court exercise supplemental jurisdiction over all of plaintiff's state law claims and dismiss them on the merits without prejudice, except for plaintiff's

retaliation claim under the City Human Rights Law; (3) the court decline to exercise supplemental jurisdiction over the City Human Rights Law retaliation claim and dismiss that claim without prejudice; and (4) that Plaintiff be given thirty (30) days to file an Amended Complaint. (See R&R (Dkt. 11).) No objections were filed.

In reviewing a magistrate judge's R&R, the district court "may adopt those portions of the Report to which no objections have been made and which are not facially erroneous." La Torres v. Walker, 216 F. Supp. 2d 157, 159 (S.D.N.Y. 2000); see also Porter v. Potter, 219 F. App'x 112, 113 (2d Cir. 2007) (failure to object waives further judicial review). The court reviews de novo "those portions of the report . . . to which objection is made." 28 U.S.C. § 636(b)(1).

No objections to Judge Azrack's R&R have been filed and the time to do so has passed. The court concludes that the R&R is not facially erroneous and thus adopts the R&R in its entirety. Plaintiff may file an Amended Complaint, but must do so within thirty (30) days of this Order. Should Plaintiff fail to file a timely Amended Complaint, the court will dismiss this action pursuant to Federal Rule of Civil Procedure 41(b). See Link v. Wabash R. Co., 370 U.S. 626, 631-33 (1962) (holding that district courts have the inherent power to dismiss claims for lack of prosecution).

SO ORDERED.

Dated: Brooklyn, New York
March 22, 2013

s/Nicholas G. Garaufis

NICHOLAS G. GARAUFIS
United States District Judge